

Introduced by Senator Cedillo

February 18, 2010

An act to amend Sections 937 and 939.2 of, and to add Sections 904.9 and 923.1 to, the Penal Code, relating to grand juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as introduced, Cedillo. Los Angeles: misdemeanor criminal grand jury authority.

(1) Existing law provides for the impaneling in each county of a grand jury which is generally charged and sworn to inquire into public offenses committed or triable within the county and to investigate or inquire into county matters of civil concern, as specified. Existing law authorizes the presiding judge in any county or city and county, or the judge appointed by the presiding judge to supervise the grand jury, to impanel an additional grand jury upon the request of the Attorney General or the district attorney or upon his or her own motion. Existing law authorizes the presiding judge of the superior court of the County of Los Angeles, or the judge appointed by the presiding judge to supervise the grand jury, to impanel up to 2 additional grand juries, in accordance with specified procedures.

This bill would provide that the presiding judge of the superior court, or the judge appointed by the presiding judge to supervise the grand jury, may, upon the request of the prosecuting city attorney of any city within the County of Los Angeles having a population in excess of 3,000,000 people, order and direct the impanelment of one additional grand jury, in accordance with specified procedures, which may inquire into any matters involving misdemeanor offenses not under inquiry by the regular grand jury, and which would have no jurisdiction to return indictments.

This bill would authorize the prosecuting city attorney to direct this grand jury to convene for the investigation and consideration of those matters involving misdemeanor offenses that he or she desires to submit to it, and to take full charge of the presentation of the matters to the grand jury, issue subpoenas, and do all other things incident thereto to the same extent as the Attorney General or district attorney may do, except that the prosecuting city attorney may not prepare indictments. The bill would also provide that a statement of the costs directly related to the impanelment and activities of the grand jury from the presiding judge of the superior court where the grand jury was impaneled that has been certified by the prosecuting attorney shall be submitted to the prosecuting city attorney for reimbursement of the costs to the county out of the prosecuting city attorney's own budget.

(3) Existing law provides that the grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as interpreter, as specified, and the compensation for the interpreter's services constitutes a charge against the county.

This bill would provide that the prosecuting city attorney of any city within the County of Los Angeles having a population in excess of 3,000,000 people may also require the services of an interpreter and in that case the compensation for the interpreter's services constitutes a charge against the city.

(4) Existing law provides that a subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the district attorney, the district attorney's investigator, or, upon request of the grand jury, by any judge of the superior court, for witnesses in the state in support of the prosecution, for those witnesses whose testimony in the judge's opinion is material in an investigation before the grand jury, and for any other witnesses as the grand jury, upon an investigation pending before them may direct.

This bill would provide that a subpoena requiring the attendance of a witness before the grand jury may also be signed and issued by the prosecuting city attorney of any city within the County of Los Angeles having a population in excess of 3,000,000 people, or by an investigator of a district attorney or prosecuting city attorney, as applicable.

(5) By imposing new requirements relating to grand juries, which are county charges, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 904.9 is added to the Penal Code, to read:
2 904.9. (a) Notwithstanding subdivision (a) of Section 904.6,
3 Section 904.8, or any other provision, in the County of Los
4 Angeles, the presiding judge of the superior court, or the judge
5 appointed by the presiding judge to supervise the grand jury, may,
6 upon the request of the prosecuting city attorney of any city within
7 the county of Los Angeles having a population in excess of
8 3,000,000 people, order and direct the impanelment of one
9 additional grand jury pursuant to this section.
10 (b) The presiding judge or the judge appointed by the presiding
11 judge to supervise the grand jury shall select persons, at random,
12 from the list of trial jurors in civil and criminal cases and shall
13 examine them to determine if they are competent to serve as grand
14 jurors. When a sufficient number of competent persons have been
15 selected, they shall constitute an additional grand jury.
16 (c) Any additional grand jury that is impaneled pursuant to this
17 section may serve for a period of one year from the date of
18 impanelment, but may be discharged at any time within the
19 one-year period by order of the presiding judge or the judge
20 appointed by the presiding judge to supervise the grand jury. In
21 no event shall more than one additional grand jury be impaneled
22 pursuant to this section at one time.
23 (d) Whenever an additional grand jury is impaneled pursuant
24 to this section, it may inquire into any matters involving
25 misdemeanor offenses, but is not authorized to inquire into any
26 matters that the regular grand jury is inquiring into at the time of
27 its impanelment and has no jurisdiction to return indictments.
28 (e) It is the intent of the Legislature that, in the County of Los
29 Angeles, all persons qualified for jury service shall have an equal
30 opportunity to be considered for service as criminal grand jurors

1 within the county, and that they have an obligation to serve, when
2 summoned for that purpose. All persons selected for an additional
3 criminal grand jury shall be selected at random from a source or
4 sources reasonably representative of a cross section of the
5 population that is eligible for jury service in the county.

6 SEC. 2. Section 923.1 is added to the Penal Code, to read:

7 923.1. (a) Whenever the prosecuting city attorney of any city
8 within the County of Los Angeles having a population in excess
9 of 3,000,000 people considers that the public interest requires, he
10 or she may direct the grand jury impaneled pursuant to Section
11 904.9 to convene for the investigation and consideration of those
12 matters involving misdemeanor offenses that he or she desires to
13 submit to it. He or she may take full charge of the presentation of
14 the matters to the grand jury, issue subpoenas, and do all other
15 things incident thereto to the same extent as the Attorney General
16 or district attorney may do, except that the prosecuting attorney
17 may not prepare indictments.

18 (b) Upon certification by the prosecuting city attorney of any
19 city within the County of Los Angeles having a population in
20 excess of 3,000,000 people, a statement of the costs directly related
21 to the impanelment and activities of the grand jury pursuant to
22 subdivision (a) or Section 904.9 from the presiding judge of the
23 superior court where the grand jury was impaneled shall be
24 submitted to the prosecuting city attorney for reimbursement of
25 the costs to the county out of the prosecuting city attorney's own
26 budget.

27 SEC. 3. Section 937 of the Penal Code is amended to read:

28 937. The grand jury ~~or~~, district attorney, *or prosecuting city*
29 *attorney of any city within the County of Los Angeles having a*
30 *population in excess of 3,000,000 people* may require by subpoena
31 the attendance of any person before the grand jury as interpreter.
32 While his *or her* services are necessary, ~~such the~~ interpreter may
33 be present at the examination of witnesses before the grand jury.
34 The compensation for services of ~~such the~~ interpreter constitutes
35 a charge against the *city in any case of the prosecuting city*
36 *attorney, or against the county in all other cases*, and shall be
37 fixed by the grand jury.

38 SEC. 4. Section 939.2 of the Penal Code is amended to read:

39 939.2. A subpoena requiring the attendance of a witness before
40 the grand jury may be signed and issued by the district attorney,

1 ~~his~~ *the district attorney's* investigator, *the prosecuting city attorney*
2 *of any city within the County of Los Angeles having a population*
3 *in excess of 3,000,000 people, the prosecuting city attorney's*
4 *investigator*, or, upon request of the grand jury, by any judge of
5 the superior court, for witnesses in the state, in support of the
6 prosecution, for those witnesses whose testimony, in ~~his~~ *the judge's*
7 opinion is material in an investigation before the grand jury, and
8 for ~~such~~ *any* other witnesses as the grand jury, upon an
9 investigation pending before them, may direct.

10 SEC. 5. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 this act provides for offsetting savings to local agencies or school
13 districts that result in no net costs to the local agencies or school
14 districts, within the meaning of Section 17556 of the Government
15 Code.